SUPREME COURT OF THE UNITED STATES.

No 3.

JOHN SMITH T. APPELLANT,

VERSUS

THE UNITED STATES.

ON APPEAL FROM THE DISTRICT COURT UNITED STATES, FOR THE DISTRICT OF MISSOURI.

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UNITED STATES,
Missouri District, set.

Be it remembered that, on the third day of October, in the year of our Lord one thousand eight hundred and twenty-seven, John Smith T, by his attorney, filed in the office of the Clerk of the Court of the United States for the Missouri District, under the authority of an act of Congress, approved the twenty-sixth day of May, in the year one thousand eight hundred and twenty-four, entitled, "An act enabling the claimants to lands within the limits of the state of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims," his petition in the words and figures following, to wit: "To the judge of the district court of the state of Missouri, the petition of John Smith T. respectfully shews, That as the legal representative of a certain James de St. Vrain, he claims ten thousand arpens of land in that part of the late province of Louisiana which is now included in the state of Missouri, by virtue of a Spanish concession legally made before the tenth day of March, in the year one thousand eight hundred and four, by the proper authorities in favor of the said James de St. Vrain, a resident in the said province of Louisiana before the said tenth day of March, in the year aforesaid. And your petitioner states that, the said claims was protected by

the treaty between the United States and the French Republic of the thirtieth of April one thousand eight hundred and three, and might have been perfected into a complete title under and in conformity to the laws, usages, and customs of the government under which the same originated, had not the sovereignty of the country been transferred to the United States. And the petitioner sets forth the nature of his claim to be as follows: that on the sixteenth day of November, in the year one thousand seven hundred and ninety-five, at St. Genevieve in Upper Louisiana, the said James de St. Vrain by his petition in writing addressed to the governor general of Louisiana, the Baron de Carondelet, prayed the said governor general to grant him in full property to him and his heirs ten thousand superficial arpens of land, with the special permission to locate in separate pieces upon different mines of what nature they may be, salines, mill seats, and any other place that shall appear suitable to his interest, without obliging him to make a settlement, which grant, as prayed for, was granted by the said governor general at New Orleans, on the 10th day of February 1796, and your petitioner that afterwards he became the legal owner of said grant by purchase from *from* the said St. Vrain and his wife, and before the day of the passing an act by the Congress of the United States, entitled, "an act, enabling the claimants to land within the limits of the state of Missouri and Territory of Arkansas, to institute proceedings to try the validity thereof;" he caused several parts and parcels of the said grant to be located in that part of the province of Louisiana now composing the state of Missouri, the boundaries of which are as follows.

One parcel of one thousand three hundred arpens including mine Shilobeth on the waters of Big river, beginning at a corner of three black oaks from one root, having for witnesses a white oak N. 50 W. at 20 links distant, and one other white oak S. 30 W. 50 links distant, thence N. 7. W. 123 links to a corner, witnesses of which are a white oak about 5 inches diameter S. 25. E. 12 links distance, a hickory 7 inches in diameter, N. 30 W. 20 links distant. Thence 71. E. 123 links of the chain to a corner; being a double black oak, each fork of which about one foot in diameter. Thence S. 22 E. 51 links to a corner, having for witnesses a white oak 11 inches diameter N. 23. E. 7 links distant, and one other white oak 11 inches diameter N. 16. W. 26 links distant. Thence S. 38. W. 63,50 links to a corner, which has for witnesses a white oak ten inches diameter S. 4 E. 50 links distant. One other white oak 15 inches in diameter N. 53. W. 45 links distant. Thence 80. W. 70,00 links of the chain to the beginning corner.

No. 2. Also one other parcel of one thousand two hundred arpens adjoining and bounding on the last mentioned tract, beginning at a post oak, thence N. 5. W. 49 poles to a post oak, thence N. 10 E. 132 poles to a post oak, thence N. 45. E. 56 poles to a post oak, thence N. 32. W. 218 poles to a post oak; thence N. 75. E. 312 poles to a post oak, thence S. 40. E. 152 poles to a stone; thence S. 5. W. 232 poles to an elm; thence S. 19½ E. 308 poles to three black oaks growing out from one root, thence S. 71. E. 492 poles to the first named corner.

No. 3. Also one other parcel containing one thousand arpens lying on the west fork of the prairie Spring creek, including the new diggings about two and a half miles from mine a Breton. Beginning at two post oaks, Thomas Russel's N. E. corner, thence W. 120 poles to a post oak, thence N. 130 poles to a post oak in Darius Shaw's line; thence E. with said line passing Shaw's corner and crossing the creek 424 poles to a post oak, thence S. 397 poles to a stake, thence W. 304 poles to a stake; thence N. 267 poles to the beginning

No. 4. Also one other parcel of 294 arpens beginning at a double black oak, thence S. 25. E. 250 poles to a double post oak, thence N. 75. E. 140 poles to a black oak; thence N. 25 W. 340 poles to a post oak; thence S. 40 W. 152 poles to the beginning, called the little diggings or M'Kees discovery.

No. 5. Also one other parcel containing two hundred and sixty-one arpens lying on the branch above M'Kees corner beginning at a marked corner, thence S. 19. E. 240 poles to a corner, thence N. 32. W. 160 poles to a corner, thence S. 51. W. 120 poles to a corner, thence S. 55. E. 320 poles to the beginning.

No. 6. Also one other parcel containing three hundred and fifty-nine arpens and fifty two perches called mine Liberty, beginning at a marked corner, thence S. 2. W. 124,00 links of the American chain to a corner, thence N. 77. E. 28,00 links to a corner, thence N. 22. W. 20,00 links of the chain to a corner; thence N. 82. E. 14,90 links to a corner, thence N. 10. W. 23 links to a corner, thence S. 82½ E. 25 links to the aforesaid beginning corner.

No. 7. Also one other parcel containing three hundred arpens beginning at a black oak, thence S. 80. E. 244 poles to a post oak, thence N. 25. E. 188 poles to a white oak; thence N. 80 W. 296 poles to a post oak, thence S. 10. W. 184 poles to the beginning. And your petitioner states, that the said claim of ten thousand arpens has been submitted to the examination of the tribunals which have been constituted by law for the adjustment of land titles, and that no report unfavorable to it has been made by either of the said tribunals. And your petitioner shows, that there is no person claiming title by a different claim from your petitioner to any part thereof, nor any person holding possession of any part thereof adverse to his possession, and that the United States are interested on account of the land covered by his claim, not claimed by any other person than your petitioner, and he prays that the validity of said claim may be inquired into, and decided by the district court for the state of Missouri, according to the provisions of an act of Congress for such case made and provided.

JOHN SMITH T.
By THOMAS H. BENTON.

Which petition was thus endorsed "let citation issue Benton." And thereupon the clerk of said court issued the following citation, to wit:

"District of Missouri, set. The President of the United States of America, to the Marshal of said district, Greeting:

You are hereby commanded to notify and cite the attorney of the United States for the district of Missouri that he be and appear before the court of the United States on the second Monday of October, instant, then and there to answer the petition of John Smith T. who prays the confirmation of ten thousand superficial arpens of land and make defence if any he has or knows of any thing to say why the same should not be confirmed accordingly; hereof fail not and have you then there this writ.

Witness the Honorable James H. Peck, esquire, judge of the [L. S.] United States for the Missouri district, the third day of October, one thousand eight hundred and twenty-seven.

Issued at office, under my private seal (there being no public seal of said court yet provided). ISAAC BARTON, Clerk.

And afterwards, to wit, on the return day of said citation, the marshal to whom the same was directed, returned the same into court with his return thereon endorsed in the following words and figures, to wit.

"Served this writ on B. Allen, esq., district attorney, October fourth, one thousand eight hundred aud twenty-seven, in the city of St. Louis, and also gave him a copy of the petition filed in this behalf.

JOHN SIMONDS Jr. Marshal.
By D. E. CUYLER, D. Marshal."

And thereupon the attorney of the United States for the district of Missouri, filed the following answer, to wit:

"The answer of Beverly Allen, attorney of the United States, to the petition of John Smith T. praying the confirmation of a Spanish concession for ten thousand arpens of land. This respondent for, and on behalf of the United States of America, reserving to himself and to the said United States now and at all times hereafter, all manner of advantage, of exception to the manifold errors, imperfections, and uncertainties in the said petition contained: For answer thereto or to so much thereof as this respondent deems it necessary and material for him to answer, answering, says, that he is wholly uninformed and ignorant of all and every, the matters and things in said petition contained, and therefore he does not admit the same or any of them to be true, but prays the court that said petitioner may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things the existence whereof may be deemed essential and necessary for the confirmation of said claim and this respondent, &c.

BEVERLY ALLEN,
Attorney of the U. S. for the Missouri District."

And thereupon this cause was continued until the next session of this court, at which said session, to wit, the November session of said court in the year of our Lord one thousand eight hundred and twenty seven, "came the said petitioner by his solicitor, and the said United States by their attorney, and this cause coming on to be heard on the petition and answer, it appears that the petition sets forth in substance that as the legal representative of a certain James de St. Vrain, the said petitioner claims ten thousand arpens of land lying within the limits of the state of Missouri, by virtue of a Spanish concession made before the tenth day of March, one thousand eight hundred and four, in favor of the said James de St. Vrain, who had been a resident in the said province. That on the sixteenth day of November, one thousand seven hundred and ninety-five, at St. Genevieve in Upper Louisiana, James de St. Vrain by his petition in writing addressed to the governor general of Louisiana, the Baron de Carondelet, prayed the said governor general to grant him in full property to him and his heirs ten thousand superficial arpens of land, with the special permission to locate in separate pieces upon different mines of what nature they might be, salines, mill seats, and any other place that should appear suitable to his interest, without obliging him to make a settlement, which grant as prayed for was granted by the said governor general at New Orleans, on the tenth day of February one thousand seven hundred and ninety-six, and that afterwards the petitioner became the legal owner of said grant by purchase from the said St. Vrain and his wife; and that before the passage of the act under which this suit is brought, he caused several parts and parcels of the said grant to be located in what is now contained within the limits of the state of Missouri, (which locations by metes and bounds are particularly set forth in said petition), and that said claim of ten thousand arpens had been submitted to the examination of the tribunals established by law for the adjustment of land titles, and that no report unfa-

vorable to it had been made by either of the said tribunals, and that there was no person claiming title by a different claim from said petitioner to any part thereof, nor any person holding possession of any part thereof adverse to his possession, and that the United States were interested on account of the land covered by his claim. And the petition then prays that the validity of said claim may be inquired into, and decided by this court.

And it also appears that the answer of the attorney of the United States, sets forth in substance that he is wholly uninformed and ignorant of all and every the matters and things in the said petition contained, and therefore that he does not admit the same or any of them to be true, and prays the court that the said petitioner may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things the existence whereof may be deemed essential and necessary for the confirmation of said claim. And it appearing in evidence offered on the part of the petitioner that a concession was made to the said Jacques de St. Vrain, in manner as in the petition is stated, and that on the sixth day of February, one thousand eight hundred and eight, a deed of bargain and sale was made by said St. Vrain and wife, of said grant with all the privileges to the same appertaining, to the said petitioner, and that after the date of said deed within the time mentioned, in said petition, said petitioner caused locations to be made of six of the tracts mentioned in said petition, and as therein is stated, but it did not appear that they had been made by any order of the government or any officer thereof, acting as such, or that they had otherwise been made than by the authority of the petitioner as claimed to be derived from the terms of the concession, and that notices of said locations have been filed with the recorder of land titles, and by him recorded about the year one thousand eight hundred and twelve, and that the said concession prior to his transfer thereof had been submitted for confirmation by said St. Vrain to one of the said tribunals for the adjustment of land claims, and afterwards again by the said petitioner after the said transfer claiming in virtue thereof ten thousand arpens of land, and that the said tribunal has decided that the said claim ought not to be confirmed. And all and singular, the premises being heard and seen, and by the court now here fully understood, and mature deliberation thereon had, and for that it seems to the court now here, that according to the order of the king of Spain, of the twenty-fourth day of August one thousand seven hundred and seventy, which vests exclusively in the then governor general of the province of Louisiana and his successors in office the power to dispose of the royal lands within the said province, and that in the disposal thereof they should conform themselves in all things to the instruction of the eighteenth day of February of the same year, which had been formed and published by lieutenant general O'Reily while governor of the said province, the said concession or warrant in the said petition mentioned, by virtue of which the said petitioner claims the land in the said petition mentioned, was not legally made by the said Baron de Carondelet, the governor general of the province of Louisiana, but was made without authority and contrary to the intention of the said royal order, and that the said royal order and instruction of O'Reily, and also those of the ninth of September one thousand seven hundred and ninety-seven, formed by the governor general Gayoso, as well as the regulations of Morales the Intendant, of the seventeenth of July one thousand seven hundred and ninety-nine, indicate a continuing policy on the part of the Spanish government, an exposition of the royal will in relation to gratuitous grants of the *of the* public domain, which

"Served this writ on B. Allen, esq., district attorney, October fourth, one thousand eight hundred and twenty-seven, in the city of St. Louis, and also gave him a copy of the petition filed in this behalf.

JOHN SIMONDS Jr. Marshal.
By D. E. CUYLER, D. Marshal."

And thereupon the attorney of the United States for the district of Missouri, filed the following answer, to wit:

"The answer of Beverly Allen, attorney of the United States, to the petition of John Smith T. praying the confirmation of a Spanish concession for ten thousand arpens of land. This respondent for, and on behalf of the United States of America, reserving to himself and to the said United States now and at all times hereafter, all manner of advantage, of exception to the manifold errors, imperfections, and uncertainties in the said petition contained: For answer thereto or to so much thereof as this respondent deems it necessary and material for him to answer, answering, says, that he is wholly uninformed and ignorant of all and every, the matters and things in said petition contained, and therefore he does not admit the same or any of them to be true, but prays the court that said petitioner may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things the existence whereof may be deemed essential and necessary for the confirmation of said claim and this respondent, &c.

BEVERLY ALLEN,
Attorney of the U. S. for the Missouri District."

And thereupon this cause was continued until the next session of this court, at which said session, to wit, the November session of said court in the year of our Lord one thousand eight hundred and twenty seven, "came the said petitioner by his solicitor, and the said United States by their attorney, and this cause coming on to be heard on the petition and answer, it appears that the petition sets forth in substance that as the legal representative of a certain James de St. Vrain, the said petitioner claims ten thousand arpens of land lying within the limits of the state of Missouri, by virtue of a Spanish concession made before the tenth day of March, one thousand eight hundred and four, in favor of the said James de St. Vrain, who had been a resident in the said province. That on the sixteenth day of November, one thousand seven hundred and ninety-five, at St. Genevieve in Upper Louisiana, James de St. Vrain by his petition in writing addressed to the governor general of Louisiana, the Baron de Carondelet, prayed the said governor general to grant him in full property to him and his heirs ten thousand superficial arpens of land, with the special permission to locate in separate pieces upon different mines of what nature they might be, salines, mill seats, and any other place that should appear suitable to his interest, without obliging him to make a settlement, which grant as prayed for was granted by the said governor general at New Orleans, on the tenth day of February one thousand seven hundred and ninety-six, and that afterwards the petitioner became the legal owner of said grant by purchase from the said St. Vrain and his wife; and that before the passage of the act under which this suit is brought, he caused several parts and parcels of the said grant to be located in what is now contained within the limits of the state of Missouri, (which locations by metes and bounds are particularly set forth in said petition), and that said claim of ten thousand arpens had been submitted to the examination of the tribunals established by law for the adjustment of land titles, and that no report unfa-

vorable to it had been made by either of the said tribunals, and that there was no person claiming title by a different claim from said petitioner to any part thereof, nor any person holding possession of any part thereof adverse to his possession, and that the United States were interested on account of the land covered by his claim. And the petition then prays that the validity of said claim may be inquired into, and decided by this court.

And it also appears that the answer of the attorney of the United States, sets forth in substance that he is wholly uninformed and ignorant of all and every the matters and things in the said petition contained, and therefore that he does not admit the same or any of them to be true, and prays the court that the said petitioner may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things the existence whereof may be deemed essential and necessary for the confirmation of said claim. And it appearing in evidence offered on the part of the petitioner that a concession was made to the said Jacques de St. Vrain, in manner as in the petition is stated, and that on the sixth day of February, one thousand eight hundred and eight, a deed of bargain and sale was made by said St. Vrain and wife, of said grant with all the privileges to the same appertaining, to the said petitioner, and that after the date of said deed within the time mentioned, in said petition, said petitioner caused locations to be made of six of the tracts mentioned in said petition, and as therein is stated, but it did not appear that they had been made by any order of the government or any officer thereof, acting as such, or that they had otherwise been made than by the authority of the petitioner as claimed to be derived from the terms of the concession, and that notices of said locations have been filed with the recorder of land titles, and by him recorded about the year one thousand eight hundred and twelve, and that the said concession prior to his transfer thereof had been submitted for confirmation by said St. Vrain to one of the said tribunals for the adjustment of land claims, and afterwards again by the said petitioner after the said transfer claiming in virtue thereof ten thousand arpens of land, and that the said tribunal has decided that the said claim ought not to be confirmed. And all and singular, the premises being heard and seen, and by the court now here fully understood, and mature deliberation thereon had, and for that it seems to the court now here, that according to the order of the king of Spain, of the twenty fourth day of August one thousand seven hundred and seventy, which vests exclusively in the then governor general of the province of Louisiana and his successors in office the power to dispose of the royal lands within the said province, and that in the disposal thereof they should conform themselves in all things to the instruction of the eighteenth day of February of the same year, which had been formed and published by lieutenant general O'Reily while governor of the said province, the said concession or warrant in the said petition mentioned, by virtue of which the said petitioner claims the land in the said petition mentioned, was not legally made by the said Baron de Carondelet, the governor general of the province of Louisiana, but was made without authority and contrary to the intention of the said royal order, and that the said royal order and instruction of O'Reily, and also those of the ninth of September one thousand seven hundred and ninety-seven, formed by the governor general Gayoso, as well as the regulations of Morales the Intendant, of the seventeenth of July one thousand seven hundred and ninety-nine, indicate a continuing policy on the part of the Spanish government, an exposition of the royal will in relation to gratuitous grants of the *of the* public domain, which

should be made within the province mentioned, and the terms and conditions upon which the same should be made incompatible with every presumption favorable to the existence of an authority in the governor general, the Baron de Carondelet, to make the concession in question, and for that, according to the intention of the said instructions and regulations, the said concession had it been legal in its origin for any purpose, had from the omission of the grantee to comply with the conditions subject to which gratuitous grants by the governor general must in every instance have been made, became, before the change of sovereignty to the United States, invalid and of no effect. And for that there was no law, usage, or custom of the Spanish government, under and in conformity to which the said grant or claim of the said petitioner might have been confirmed, had there been no transfer of the sovereignty of the country to the United States, as is evinced by the general policy and intention of the said order, instructions and regulations. The said concession and claim of the said petitioner John Smith T. is therefore ordered, adjudged, and decreed to be invalid, void, and of no effect, and it is further ordered, adjudged, and decreed that the said petitioner pay all costs occasioned in and about the prosecution and defence of this suit. And thereupon the said petitioner by his solicitor aforesaid, prays an appeal from the judgment aforesaid of the court here, so as aforesaid rendered to the supreme court of the United States, and to him the same is granted by the court here, whereupon the said petitioner exhibits to the court here an appeal bond for the payment of costs entered into by Arthur L. Magenis, which is by the court approved. Thereupon it is ordered by the court here, that record of the proceedings aforesaid, with all things thereunto relating, be transmitted to the supreme court of the United States, together with a transcript of the evidence given on the hearing of this cause consisting of the depositions of Marie P. Leduc, Clement B. Penrose, William Russel, John Stuart and John Hawkins, and also transcripts of the several papers referred to in said depositions, and produced in evidence, with the sworn translations of such of the said papers as are in a foreign language, to wit: The affidavit of Reuben Smith, marked No. 1. A copy of the concession from the Baron de Carondelet to Jacques de St. Vrain, with a sworn translation, marked No. 2. A deed from Jacques de St. Vrain and Felicite his wife, to John Smith T. marked No. 3. Extracts from the books of the recorder of land titles, marked No. 4. The notices of said locations filed by the petitioner with the recorder of land titles, marked No. 5. A proclamation of Salcedo and Casa Calvo with a sworn translation, marked No. 6. A letter from Casa Calvo to Charles Dehault Delassus, with a sworn translation, marked No. 7. And a copy of a notice to the recorder of land titles, marked No. 8. And it is further ordered that these papers and proceedings, and every of them be considered and made a part of the record in this case for the consideration of the said supreme court.

Marie Phillipe Leduc, being first duly sworn, says that he has seen the original petition of Jacques de St. Vrain, and the concession from the Baron de Carondelet to Jacques de St. Vrain, to try the validity whereof, the present petition of John Smith T. is filed that the said petition and concession were filed with Mr. Donaldson one of the commissioners for ascertaining and adjusting the French and Spanish claims to lands in the territory of Missouri, for record, and was recorded. That the original petition of St. Vrain for the concession, and the grant by the Baron de Carondelet were free from erasure and interlineation; that he never compared the original with the record; that the copy of the record thereof produced in court is a true

copy from the books of the recorder of land titles, and as near as is possible a fac simile of it, showing the erasures, interlineations and figures as they appear on the record. That the copy of the record produced in courts, is in the words of the original petition and concession; that he was translator for the board of commissioners, and translated the same; that the translation contained in the first volume of laws of the United States, is a true translation and the same made by him; that he was private secretary to Don Carlos de Hault Delassus, commandant of the post of New Madrid in the province of Louisiana, in the year one thousand seven hundred and ninety-six, and in that capacity saw official communications from the Baron de Carondelet to the said commander, received while he then acted as private secretary; that he had access to all the official communications before that time received; and then became acquainted with the signatures of the Baron de Carondelet, further, that he was before that time and subsequent to the year one thousand seven hundred and ninety-three, clerk to a merchant at New Madrid aforesaid, who was also notary public, and in this situation he frequently saw official communications and private letters from the Baron de Carondelet, and many public papers signed by him, and in this situation also he became acquainted with the signature of the Baron. Furthermore, when the commandant Lopez became lieutenant governor of Upper Louisiana, in one thousand seven hundred and ninety-nine, he continued to be his private secretary, and in this situation, by his frequent inspection of the public papers and official communications, he became acquainted with the signature of the Baron de Carondelet, and hence he is enabled to say, though he did never see him write, that the signature to the concessions aforesaid is in the handwriting of the Baron de Carondelet; he cannot say that the word *concedido*, which translated is *granted*, is in the handwriting of the Baron; that the word *concedido* was over the signature; that the space between the conclusion of the petition of St. Vrain and the signature of the Baron was small; that the word *concedido* with the name of place, the date, and the signature of the Baron was all which appeared at the foot of the petition of St. Vrain; that the first time he saw the concession was in one thousand eight hundred and six, or one thousand eight hundred and seven. He further testifies that the said Jacques de St. Vrain was an inhabitant of Upper Louisiana, when he himself came to the province, which was about the year *one thousand nine hundred and ninety-three*. The said witness further testifies that the printed copy of the proclamation of Manuel de Salcedo and the Marquis Casa Calvo now shewn to the court, and marked No. 6, and the letter in writing from them to the lieutenant governer of Upper Louisiana shewn to the court and marked No. 7, were considered by the said lieutenant governor as official acts and genuine, and that the proclamation was promulgated to the authorities and inhabitants of Louisiana. The said witness further testifies that the papers shewn to the court are the original notices, marked No. 5, together with the plats of survey accompanying them, filed by Wm. Russell as agent for the petitioner John Smith T. and were recorded by the deponent as clerk to the recorder of land titles. He further testifies, that he was present with the clerk of the board of commissioners, Mr. Donaldson, when Mr. St. Vrain called to get his original concession which had been filed with him, and as it had not yet been recorded, the clerk left a space for it on the book, that it might be recorded in its proper place when returned.

Clement B. Penrose being first duly sworn, testifies and says, that he was one of the board of land commissioners in the territory of Missouri and

has seen the original concession to St. Vrain for ten thousand arpens, for confirmation of which the present petition is filed; and that the said original was free from interlineations and erasures; and that the quantity of arpens granted was in writing and not in figures; that he has seen letters and grants from the Baron de Carondelet, whose signature was very peculiar, and that the signature to St. Vrain's concession was exactly similar to those he had seen to his letters and other papers. He further testifies that he has seen the said original concession in his character of commissioner; and never had a doubt about its genuineness, and that he knows all about the recording of the concession and how the record came to be erased and interlined; that Donaldson, the clerk to the board of commissioners, being about to be absent, left the record books in possession of him, the said Penrose, then a commissioner of the board of land titles, with a request that he would have the records properly made by a clerk whom left to do the writing named Ryan; that Ryan under his orders recorded the original concession to St. Vrain in a space which had been left for it, which was too small, and not understanding the language made an imperfect record, and abreviated many words; that witness then corrected the record in his own handwriting, erasing in some places, and interlining, so as to make the record agree precisely with the original concession. But being defaced in this way, the witness directed clerk Ryan to make a new and fair record in another part of the book, which he since ascertained that he did not do, but soon after disappeared, and he has not seen him since. The said witness also testifies that he has compared the copy of the record of the concession to St. Vrain, which is produced in court, with the books of the recorder, and finds it to be a true copy of the record. He further testifies that he was acquainted with Jacques de S. Vrain and his handwriting, and with the handwriting of L. Labeaume and B. Pratte, the subscribing witnesses to the deed of conveyance produced in court from St. Vrain and wife to John Smith T; and that the signatures of said witnesses and grantor are genuine, and their own proper handwriting; and that one of said witnesses Labeaume is dead, and the other absent from Missouri in one of the atlantic states. He further states that he was acquainted with the late Antoine Soulard, formerly surveyor general of Upper Louisiana, whose testimony before the former board of commissioners, with that of the abovementioned L. Labeaume, relative to the said concession to St. Vrain, is now offered to the court, and that the said Soulard is dead.

William Russell being first duly sworn, testifies that as agent for John Smith T. he filed notices of a number of locations under the St. Vrain concession for him, about the year one thousand eight hundred and twelve, and the same with the recorder of land titles for record.

Depositions of witnesses, produced, examined and sworn by consent of plaintiff and defendant, before me Daniel Dunklin, a justice of the county court, for the county of Washington in the state of Missouri, this twentieth day of October in the year one thousand eight hundred and twenty-seven, at the county aforesaid in presence of Arthur L. Magenis, attorney for said plaintiff, and Beverly Allen, attorney for said defendants.

Personally appeared John Stewart of lawful age, and first being duly cautioned, examined, and sworn to speak the truth, the whole truth, and nothing but the truth, deposeth, and saith, that on the fourth day of May one thousand eight hundred and eleven, made a survey of a tract of land containing two hundred and ninety-four arpents, which survey was made for John Smith T. as asignee of a claim of Jacques St. Vrain, for ten thousand arpents of land

which plat the deponent identifies by putting his name on the margin, and is a true and correct delineation of the survey by him so made, said land being situated in the then county of St. Genevieve, territory of Missouri. Also, on the sixteenth day of November, one thousand eight hundred and twelve, made a survey of a tract of land containing three hundred and seventy arpens, which survey was made for John Smith T. as assignee of a claim of Jacques St. Vrain for ten thousand arpens, which plat the deponent identifies by putting his name on the margin, and is a true and correct delineation of the survey by him so made, said land being situated in the then county of St. Genevieve and territory of Missouri.

Also on the nineteenth day of November, one thousand eight hundred and twelve, made a survey of a tract of land containing two hundred and sixty-one arpents, which survey was made for the said John Smith T. as assignee of a claim of Jacques St. Vrain, for ten thousand arpens, which plat the deponent identifies by putting his name on the margin, and is a true and correct delineation of the survey by him so made, said land being situated in the then county of St. Genevieve territory of Missouri.

Also that the plat here presented with the name of the deponent put on the margin representing a survey of three hundred arpens of land made on the seventeenth day of November, one thousand eight hundred and twelve, for John Smith T. assignee of a claim of said Jacques St. Vrain for ten thousand arpens, he believes to be a true and correct copy of a survey made by said deponent, and that the said tract of land is situated in the then county of St. Genevieve and territory of Missouri.

Also that the plat here presented with the name of the deponent on the margin, representing a survey of twelve hundred arpents of land, made on the fifteenth day of October one thousand eight hundred and eleven, and also a survey of thirteen hundred arpens of land made on the said last mentioned day, the first being called the Bèlle fountain tract, the last mentioned, the Shiboleth tract, for John Smith T. as assignee of Jacques St. Vrain, he believes to be a true and correct copy of the original plat and survey by him made of said tracts, which tracts were by him surveyed.

JOHN STEWART.

Personally appeared, John Hawkins of lawful age, and being first duly cautioned, examined, and sworn, to speak the truth, the whole truth, and nothing but the truth, deposeth, and saith, that the paper here presented and representing a plat and description of a tract of land containing one thousand arpens, including the new-diggings surveyed for Robert Stothart, by order of the general court of the then territory of Missouri, was made by him on the twenty-eighth day of April, one thousand eight hundred and thirteen, and is a true and correct delineation of said tract of land, which he identifies by putting his name on the margin; said land is situated in the then county of St. Genevieve, territory aforesaid.

JOHN HAWKINS.

I, Daniel Dunklin, one of the justices of the county court for the county of Washington, do hereby certify that the foregoing depositions of John Stewart and John Hawkins was by me reduced to writing, and subscribed by them on the twentieth day of October one thousand eight hundred and twenty-seven, in the town of Potosi, county of Washington, state of Missouri, and that the papers therein refered to, are the same herein enclosed, the said witnesses being first by me cautioned, examined, and sworn to testify the truth,

the whole truth, and nothing but the truth; and the said depositions, are by me sealed up.

DANIEL DUNKLIN.

One of the justices of county court of Washington county.

Exhibit No. 1. Reuben Smith being of lawful age, and duly sworn, says that in the year one thousand eight hundred and seven or one thousand eight hundred and eight, his brother John Smith T. gave him a concession for ten thousand arpens of land made by the Baron de Carondelet in favor of Jaques de St. Vrain, to be laid on mines, salines, and mill seats, &c., and which the said John Smith T. had purchased, to be carried by the said Reuben Smith to New Orleans, to be there recorded preparatory to making locations under the said concession in the territory of Orleans: that the said concession was not registered there on account of the death of the recorder, which happened just at that time, and that in bringing said concession back to upper Louisiana, he lost his pocket book containing the said concession on the great road from Nashville to Missouri, near where the dividing line between Kentucky and Tennessee crosses the same, and that having perceived after some time that the pocket book was lost, the said Reuben Smith turned back and found some of the pieces of the papers which the pocket book had contained, but no part of the concession was found, and the said Reuben Smith verily believes that the pocket book and papers, including the concession were destroyed by cattle, the signs of which were visible, and the bits of paper found having the appearance of having been chewed, the said concession never having been seen or heard of by him as being in existence since that time.

R. SMITH

Sworn to in open court, October 9th, 1827.

ISAAC BARTON, Clerk.

Exhibit No. 2. A monsieur le Baron de Carodelet Chevalier de Malta, Brigadier des armees du Roy, Gouverneur General, Vice Patron de la Louisiane et Floride occidental inspecteur des troupes d'icelles &c. Monseigneur Jac'q Ceran Delassus de St. Vrain, ancien officier de la Marine Royal Francaise avec tous le respect qui vous est du, a l'honneur de vous exposer, et dit qu' obligé d'emigrer dans les Estats Unis par des circoustances malheureusempt trops counus agant perdu la fortune et s'on etat il a suivi a St. Genevieve sa famille et s'est assoice a sou sorte, que votre generoseus boute et protection out en le soin d'adoneir. Le Suppliant a en pendant cet interval la bonheur de se rendre utille an Gouvernement que la accueille en faisant tous les efforts pour montrer sou zele, son activite et sou devouement contre un parte de Francais qui o'lieut meuacer les possessions. Espagnols les connaissances de Minera Logie que possedi le suppliant ont engagé son pére a luir ceder le contrat qu'il a fait avec le Gouvernement pour la fourniture d'une certaine quantite de plont dans les vues de remplier avec plus de facilité les conditions faite par son pore avec Mr. L'intendant satisfaire le Gouvernement et s'assurer un bien etre qui puisse lui assurer un jour avenir une existance honorable. Le Suppliant vous prie de lui conceder en toute propriete a lui et ses heritiers dix mille arpens de terre en superficie avec la permission particulière de les placer par morceaux separes sur divers mines de quelque nature qu'elles puissent étre salines, emplacement de moulins et surtous endroits qui paraitra convenable a ses interest et sans cependant étre dansl'obligation d'un etablissement que dans ce moment il ne pourrait pas faire avec succés attendu que les divers es exploitations exigent des grandés

dépence et que ces objects pourant etre pris dans des endroits eloignes de la population et exposés aux insultes des sauvages ce sout des graces que le supliant ose esperer de votre généreuse boute et de votre justice.

St. Genevieve, 16, 9bre, 1795.

JACQUES de St. VRAIN.

Nueva Orleans 10 de Febrer, 1796.

Concedido--EL BARON de CARONDELET.

Recorded in book No. 3. page 28 and 29, of February 28th, 1806.

ANTOINE SOULARD, Surveyor Gen'l of Louisiana.

Recorder's Office, St. Louis, October 5, 1827.

I, Theodore Hunt, Recorder of land titles in the state of Missouri and territory of Arkansas, do certify the above to be truly copied from Record Book C. page 336, on file in my office.

THEODORE HUNT.

TRANSLATION. To the Baron de Carondelet, Knight of Malta, Brigadier of the Armies of the King, Governor General, Vice Patron of Louisiana and West Florida, and Inspector of the troops of the same. Sir James Ceran Delassus de St. Vrain, formerly an officer of the Royal French Marine with all due respect has the honor to make known to you that being obliged to emigrate to the United States, by circumstances unhappily too well known, having lost his fortune and his situation, he has followed his family to St. Genevieve, and has associated himself to their lot, which your generous bounty and protection has been careful to ameliorate. The petitioner, during this interval has had the good fortune to render himself useful to the government that has received him, by using all his efforts to show his zeal, his activity, and his devotedness, against a party of French who dared to menace the Spanish possessions. The knowledge of mineralogy possessed by the petitioner induced his father to make over to him the contract which he had formed with the government for the supply of a certain quantity of lead. With a view the more easily to fulfil the conditions entered into by his father with the Intendant, to satisfy the government, and to place himself in circumstances which shall insure to him at a future day, an honorable existence, the petitioner asks you to grant in full property, to him and to his heirs ten thousand superficial arpens of land, with the special permission to locate in separate pieces upon different mines of whatever nature they may be, salines, mill seats, and any other place that shall appear suitable to his interest, without, however, obliging him to make a settlement, which at the present moment he could not do with success, seeing that the execution of his different works requires great expense, and that the objects cannot be effected, except in places remote from population, and exposed to the insults of the Indians. These are favors which the petitioner ventures to hope from your generous bounty, and from your justice.

St. Genevieve, 16th November, 1795.

JACQUES de St VRAIN.

New Orleans, 10th February 1796. Granted.

The BARON de CARONDELET.

Recorded in book No. 3. pages 28 and 29, of Feb. 28, 1806.

ANTOINE SOULARD.

Surveyor General of Louisiana.

Territory of Louisiana, }
District of St. Louis. }

Exhibit No. 3. Know all men by these presents; that we Jacques de St. Vrain, and Felicite St. Vrain, the wife of the said St. Vrain, of the territory and district aforesaid, for and in consideration of the sum of five thousand dollars in hand paid, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do bargain, and sell, transfer, set over, and convey, unto John Smith T., of said territory and district of St. Genevieve, his heirs and assigns forever, all the right, title, interest, claim, or demand which we have to a grant for ten thousand arpens of land, to be located on mines, minerals, mill seats, or any other lands which might be considered most conducive to our interest, and meaning is hereby fully to transfer, and convey unto the said John Smith T. his heirs and assigns, all the privileges we have under the before recited grant of ten thousand arpens of land, and according to an article agreement left in the hands of Mr. James Maxwell, which is on record, given us by the Baron de Carondelet in February, one thousand seven hundred and ninety-six.

In testimony whereof we have hereunto affixed our seals, this sixth day of February, one thousand eight hundred and eight, in presence of

Witnesses, L. LABEAUME, JACQUES de St. VRAIN, [L. S.]
BERNARD PRATTE, FELICITE St. VRAIN. [L. S.]

Pardevant le soussigne un des juges de la cour des plaidoyers communs pour le District de St. Louis, Territorie dela Louisiane, est comparn Jacques de St. Vrain, le quei a reconnu que l'aete cy dessus coutenoit ses volontes and que comme lel il pourvoirt etre enregistre agant ensuite tire a particulier dame Felicite sou espouse et lui agant demandé si elle avoit signe le present acte de sa bonne volonte and sans y etre sollicitre and agant la ditte dam me affirmativement repondu quelle avait signe de de son plein gre and de la, proprie volonte, j'ai signe and scelle le dit acte le jour and an que dessus.

BERNARD PRATTE. [J. C. P.]
District of St. Louis.

Recorded in Book A. pages 545, and following this sixth day of February A. D. one thousand eight hundred and eight.

M. P. LEDUC, Recorder.

Translation of the Acknowledgment.

Before the undersigned, one of the judges of the court of common pleas for the district of St. Louis, Territory of Louisiana, appeared Jacques de St Vrain, who acknowledged the above act as his free will, and as such it may be recorded, and afterwards having examined apart from her said husband his wife Felicite, and demanded of her if she had signed the present act of her free will, and without being solicited, and had the affirmation of said lady, she answered that she signed the same of her free will and pleasure. I have signed, and sealed the said act the day and year above.

BARNARD PRATTE. [J. C. P.]

August 30th 1806.

Exhibit No. 4. The board met agreeably to adjournment.---Present the honorable John B. C. Lucas, Clement B. Penrose, James L. Donaldson, Esq's.

James St. Vrain, claiming ten thousand arpens of land, produces a concession by the Baron de Carondelet, dated at New Orleans the 10th February, 1796 in these words, *concedido*, the petition stating that the claimant, may survey the said land in different tracts of such size as may best suit him, when to him convenient, and wherever he may deem it most suitable to his interest, whatever may be the nature of the soil, either saline, or mine land, mill seats, or other land, provided the same be vacant.

Louis Labeaume, being duly sworn, says, claimant being going down to New Orleans in the 1797, he left his business and papers to the charge of the witness, and that the aforesaid concession was then among those papers left to his charge.

Auguste Chouteau being duly sworn, says, that he knows the handwriting of the Baron de Carondelet, having seen him write often, and that the signature to the said decree is his own handwriting.

Anthony Soulard being also duly sworn, says that the concession or decree aforesaid, to wit, concedido, is in the handwriting of the Secretary of Government, but that the signature is the Baron de Carondelet's own handwriting.—Book 1. page 514.

Friday, December 27th, 1811.

Board met. Present John B. C. Lucas, Frederick Bates, and Clement B. Penrose, Commissioners.

John Smith T. assignee of Jacques St. Vrain claiming ten thousand arpens of land, see Book No. 1 page 514.

Original papers not produced. The record of the concession much compressed, thirty-three words are interlined with different ink, the words Louis Labeaume apparently the head of the said Labeaume's notice of claims occupies one third of the paper in the direction which four lines of the record of said concession stands in, so that two thirds of the said paper in the direction of the said lines is covered on each side with the said four lines, and the remaining one third in the middle, is occupied by the said words, Louis Labeaume.

It appears from the records that John Smith T, claims under this concession as follows, one thousand arpens at a place called the new diggings, about two miles from the mine a Breton, a place known by the name of mine a Robina, three hundred arpens on the branch above Renault's mine, three hundred arpens, *three hundred arpens*, including Doget's mines, two hundred arpens on the first branch, emptying into the mine fork on the south side above its junction with Big river, two hundred arpens including a place called M'Kees discovery, about a mile and a quarter from the last mentioned place, fifty arpens including a mill seat on the second creek, emptying into Big river above the junction of the mineral fork on the west side.

It is the opinion of a majority of the Board, that this claim ought not to be confirmed.

FREDERICK BATES, Com'r.

Forbears giving an opinion----Book 5. page 540.

JOHN B. C. LUCAS,
CLEMENT B PENROSE,
FREDERICK BATES,

Recorder's Office, St. Louis, October, 5, 1827.

I, Theodore Hunt, Recorder of land titles in the state of Missouri, &c., do certify that the foregoing is truly copied from the minutes and proceedings of the Board of Commissioners Books, No. 1 & 5 on file in my office

THEODORE HUNT.

Exhibit No. 5. *Plat No. 2 and 3*, platted by a scale of 100 poles to the inch, English measure.

[Here follows a copy of the plat, for which see opposite page.]

Surveyed two thousand five hundred arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jacques de St. Vrain for ten thousand arpens, October 15th 1811.

JOHN STEWART.

To Frederick Bates Esq. Recorder of land titles in and for the territory of Missouri,—Please to take notice that the within is an inclusive plat of survey of two thousand five hundred arpens of land claimed by John Smith T. as assignee Jacques de St. Vrain, as will more fully appear by the notice of the said claim dated November 30th, 1812, signed by *Wm. Russell*, agent for the claimant, in which notice the within survey, Nos. 2 & 3. That part which is divided by a line dotted from A to B marked John Smith T. with *red ink* and *mine Shilobeth*, with black ink so far as the dotted line is considered No. 2, for which part a separate and distinct plat is herewith in addition to this submitted for record; (on the correctness of which as to the establishment and location, corners and boundaries, the claimant has entire reliance; and does not at all rely on the within, so far as it regards *that part* which contains 1,300 arpens, it being only added to show the connection of the two surveys, *the addition to No.* 2, being No. 3, and containing twelve hundred arpens; the said John Smith T. claims to the boundaries thereof as represented by that part of the within survey; the said boundaries of which are well marked, the lines exactly measured and corners well established, as is by the said plat well represented, the line dotted from A to B (as well as the other lines represented) is well marked; No. 3 is known by the name of "mines of Belle Fountain."

The undersigned agent for John Smith T. dotted the lines on the within plat which separates No. 2 from No. 3, which line however was marked and measured by Silas Bent, esq. in January 1812. The undersigned agent also inserted on the face of the within plat the quantity of arpens contained in each No. severally, &c. &c., in his own handwriting, to serve as notes of explanation and distinguishment.

Wm. RUSSELL, Agent for JOHN SMITH T.

Recorder's Office St. Louis Oct. 12, 1827.

I, Theodore Hunt, Recorder of land titles in the state of Missouri, do certify the above to be truly copied from Record Book F. page 44 on file in my office.

THEODORE HUNT.

MISSOURI TERRITORY,
County of St. Genevieve.

April 28th, 1813.

In compliance with an order of the general court, surveyed for Robert Stothart, a tract of land lying and being on the west fork of the prairie spring creek at the mines called the new diggings about two miles and a half from mine a Breton, beginningat two post oaks, Thomas Russell's N. E. corner, running west 120 poles to a post oak, thence N. 130 poles to Darius Shaw's line to a post oak, thence east with said line passing Shaw's corner and cross ing the creek 424 poles to a post oak, then S. 397 poles to a stake, then west

304 poles to a stake, thence north 367 poles to the beginning including the mines, and diggings, and furnaces of what is called the new diggings containing 1,000 arpens.

HENRY BUNKER and JOHN H. WEBER } C. C.

JOHN HAWKINS, Surveyor,
By order of General Court.

Plotted by a scale of 100 poles to the inch, English measure.

[Here follows a copy of the plat, for which see opposite page.]

Surveyed two hundred and ninety-four arpens of land, as delineated in the above plat for John Smith T. claiming under a grant to Jacques St. Vrain of ten thousand arpens, May 4th, 1811.

JOHN STEWART.

To Frederick Bates, Esq. Recorder of land titles in and for the teritory of Missouri,—Please to take notice, that the above is the plat of survey of two hundred and ninety-four arpens of land claimed by John Smith T. assignee of Jacques de St. Vrain, by a notice of claim signed by *Wm. Russell*, agent for the claimant, dated November 30th, 1812, in which notice of claim the above is designated by No. 20, Wm. Russell Agent for John Smith T.

Plotted by a scale of one hundred poles to the inch, English measure.

[Here follows a copy of plat No. 18, for which see opposite page.]

Surveyed two hundred and sixty-one arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jaq. St. Vrain of ten thousand arpens.

November 19th, 1812. JOHN STEWART.

To Frederick Bates, Esq. Recorder of land titles in and for the territory of Missouri,—Please to take notice, that the above is the plat of survey of two hundred and sixty arpens of land, claimed by John Smith T. as assignee of Jacques de St. Vrain, by notice of claim dated November 30th, 1812, signed by *Wm. Russell*, agent for the claimant, in which said notice the above tract is designated by No. 18. WM. RUSSELL, Agent for John Smith T.

[Here follows a copy of a plat for which see opposite page.]

Surveyed three hundred and seventy arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jacques St. Vrain of ten thousand arpens.

November 16th, 1812. JOHN STEWART.

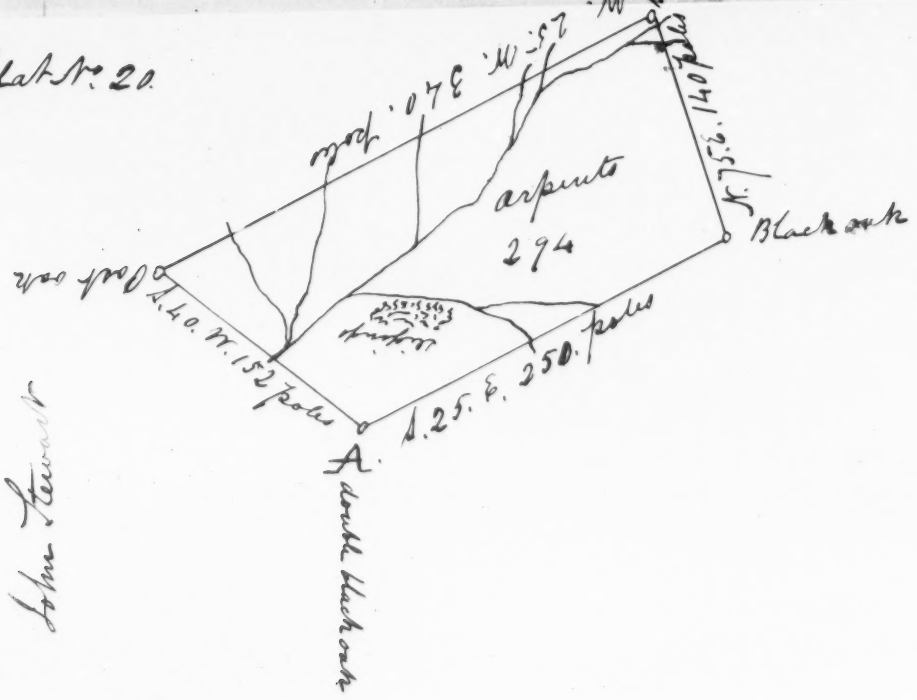
[Plat No. 19, opposite page]

To Frederick Bates Esq. Recorder of land titles in and for the territory of Missouri:

Please to take notice that the above is the plat of survey of three hundred arpens of land claimed by John Smith T. assignee of Jacques de St. Vrain, by a notice of claim signed *Wm. Russell*, agent for claimant, dated November 30th, 1812, in which notice the above is designated by No. 19.

WM. RUSSELL,
Agent for JOHN SMITH T.

Plat No. 20.


N. 25° W. 340. poles
N. 75° E. 140 poles
arpents
294
Black oak
Oak
S. 40. W. 152 poles
S. 25. E. 250. poles
A.
double black oak
John Stewart

N. 19. E. 240 poles
A.
M.c Kees Branch
arpents
261 –
S. 55. E. 320 poles
S. 15. W. 120 poles
S. 32. W. 160 poles

S. 87 E. 112. poles
N. 2. E. 332 poles
S. 10. W. 92. P.
S. 87. E. 50.
S. 22. W.
S. 3. E. 116. poles
S/E corner

304 poles to a stake, thence north 367 poles to the beginning including the mines, and diggings, and furnaces of what is called the new diggings containing 1,000 arpens.

HENRY BUNKER and JOHN H. WEBER } C. C.

JOHN HAWKINS, Surveyor,
By order of General Court.

Plotted by a scale of 100 poles to the inch, English measure.

[Here follows a copy of the plat, for which see opposite page.]

Surveyed two hundred and ninety-four arpens of land, as delineated in the above plat for John Smith T. claiming under a grant to Jacques St. Vrain of ten thousand arpens, May 4th, 1811.

JOHN STEWART.

To Frederick Bates, Esq. Recorder of land titles in and for the teritory of Missouri,—Please to take notice, that the above is the plat of survey of two hundred and ninety-four arpens of land claimed by John Smith T. assignee of Jacques de St. Vrain, by a notice of claim signed by *Wm. Russell*, agent for the claimant, dated November 30th, 1812, in which notice of claim the above is designated by No. 20, Wm. Russell, Agent for John Smith T.

Plotted by a scale of one hundred poles to the inch, English measure.

[Here follows a copy of plat No. 18, for which see opposite page.]

Surveyed two hundred and sixty-one arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jaq. St. Vrain of ten thousand arpens.

November 19th, 1812. JOHN STEWART.

To Frederick Bates, Esq. Recorder of land titles in and for the territory of Missouri,—Please to take notice, that the above is the plat of survey of two hundred and sixty arpens of land, claimed by John Smith T. as assignee of Jacques de St. Vrain, by notice of claim dated November 30th, 1812, signed by *Wm. Russell*, agent for the claimant, in which said notice the above tract is designated by No. 18. WM. RUSSELL, Agent for John Smith T.

[Here follows a copy of a plat for which see opposite page.]

Surveyed three hundred and seventy arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jacques St. Vrain of ten thousand arpens.

November [illegible], 1812. JOHN STEWART.

[Plat No. 19, opposite page.]

To Frederick Bates Esq. Recorder of land titles in and for the territory of Missouri:

Please to take notice that the above is the plat of survey of three hundred arpens of land claimed by John Smith T. assignee of Jacques de St. Vrain, by a notice of claim signed *Wm. Russell*, agent for claimant, dated November 30th, 1812, in which notice the above is designated by No. 19.

WM. RUSSELL,
Agent for JOHN SMITH T.

Plan No 19

Mr. Hall's Land
S. 10° E. 244 poles
W. 184 poles to Mr. Hall's Land
S. 10°
300 acres
N. 80° W. 276 poles
Mr. Hall's Land

Surveyed 300 arpens of land as delineated in the above plat for John Smith T. claiming the same under a grant to Jacques St. Vrain of ten thousand arpens.

November 17th, 1812.

JOHN STEWART.

Recorder's Office, St. Louis, October 12th, 1827.

I, Theodore Hunt, Recorder of land titles in the state of Missouri, do certify the above to be truly copied from Record Book F, page 45, on file in my office.

THEODORE HUNT.

Exhibit No. 6. Don Manuel de Salcedo, Brigadier de los Reales Exercitos Gobernador Militar y Politico de las Provincias de la Luisiana y Florida Occidental, Inspector de las Tropas Veteranas, y Milicias de ellas, Vice Patrono Real, Juez Sub-delegado de la superintendencia general de correos, &c. y Don Sebastian Calvo de la Puerta, y O'Farrill, Marques de Casa Calvo, Caballero del orden de Santiago, Brigadier de los Reales Exercitos y coronel del regimiento de Infanteria fixo de la Havana, commissionados por S. M. para la entrega de esta Provincia a la República Francesa.

Hacemos saber á todos los vasallos del Rey Muestro Señor de qualquiera clase y condicion que sean ha resuelto S. M. se haga la retrocession de la provincia Luisiana, a reciproca satisfaccion de ambas Potencias, continuando la mismas pruebas de protecion y afecto que han experimentado siempra los habitantes de esta provincia, ha tenido a bien determinar entre otras cosas, ciertos puntos que creemos de muestro deber poner en la noticia publica para el particular gobierno, y disposiciones de aquellos a quienes pueda interesar.

1. Teniendo S. M. presentes las obligaciones impuestas por los tratados, y queriendo evitar las disputas que pudieran suscitarse se ha dignado resolver, que la intregar de la calonia e isla de la Nueva Orleans que debe hacerse al General de Division Victor, u Oficial legitimente autorizado por el Gobierno de la Republica Francesa, se verifique en los mismos terminos que la Francia la cedio L. S. M. en cuya virtud los limites de ambas orillas del Rio San Luis O Misisippi, permaneceran segun se fixaron irrevocablemente por el articulo 7 del tratado definitivo de paz concluido en Paris a 10. de Frebrero de 1763, y consiquientemente los establecimientos desde el Rio Manchak, ó Iberville hasta la linea, quer separa el territorio Americano de los Dominios del Rey que dan en poder de la Espana y annexos a la Florida Occidental.

2. Todos los individuos, que haya empleados en qualquier ramo que sea, y quieran continuar baxo el Dominio del Rey, pasaran a la Plaza de la Havana, ó bien a otros puntos de la posesiones de S. M. a menos que prefieran quedarse al servicio de la Francia, lo que podran executar libremente: mas si algun motivo fundado y justo impidiese, por ahora, a los primeros el cumplimiento de esta disposicion, lo representaran oportumente por el conducto de sus Xefers respectivos para la determinacion que corresponda.

3. La piedad generosa del Rey no dejara de continuar las pensiones concedidas a la vindas, y retirados, y oportunamente seles hara saber en el modo que esto hayada verificarse.

4. Manifestando S. M. las esperanzas que tiene por la ventaga y tranquilidad de los habitantes de la colonia, se promete de la sincera amistad y estrecha alianza que une al Gobierno espanol con elde la Republica, que este dara sus ordenes al Gobernador, y a los demas oficiales empleados a su ser-

siasticos, y casas religiosas que surven los curatos, y misiones, continuen su funciones y gozen de los mismos privilegios, prerrogativas, y exenciones que les han sido concedido por los titulos de sus establicimientos, que los Juezes ordinarios continuen igualmente que los tribunales establecidos a administrar la justicia, segun las leyes y costombres recibidas en la colonia: que a los habitantes se les mantengan, y conserve en pacifica posesion de sus biénes, que les sean confirmadas todas le concesiones ó propriedades de qualesquiera especie hecha por los Gobernadores de estas Provincias, aum quando no hayan sido confirmadas por S. M. esperando a demas que el Gobierno de la Republica dara a sus nuevos subditos las mismas ponebas de proteccion y afecto que han experimentado baxo el dominio de S.M.

Afin de que todos los interesados puedan tomar la terminacion que juz guen mas conveniente a sus intereses, hacemos saber iqualmente que en los casos de duda deben acudir a qualquiera de nosotros para la providencia que corresponda, on arreglo a las Reales ordenes, é instrucciones con que nos hallamos.

Y para que llegue a noticia de todos hemos mandado publicar el presente con le solemnidad y requisitos de estilo, a són de caxas militares, y fixarlo en los parages acostumbrados.

Dado en la Nueva Orleans a 18 de Mayo de 1803.

MANUEL de SALCEDO.
EL MARQUIS de CASA CALVO.

Por mandado desus Senorias

CARLOS XIMENEY, Escribano de guerra.

C. Copia. ANDRES LOPEZ ARNESTO.

Translation. Don Manuel de Salcedo, Brigadier of the Royal Armies, Governor Civil and Military of the Provinces of Louisiana and Western Florida, Inspector of the Troops and Militia thereof, Vice Patron Royal, Judge Sub-delegate of the General Intendency of—&c., and Don Sebastian Calvo de la Puerra y O'Farill, Marquis of Casa Calvo, Knight of the Order of St. James, Brigadier of the Royal Armies, and Colonel of the Regiment of Infantry of Havana, commissioned by his majesty for the delivery of this province to the French republic:

Make known to all the vassals of our lord the king, of whatever class or condition they may be, that his majesty has resolved, that the retrocession of Louisiana should be made to the reciprocal satisfaction of each power; and that the same proofs of protection and love which the inhabitants of this province have experienced should be continued, his majesty amongst other things has been pleased to determine certain points, which we believe our duty to cause to be published for the knowledge and disposition of all interested.

First. His majesty having under his eyes the obligations imposed by the treaties, and being desirous to avoid all dispute which might unexpectedly arise, has resolved that the retrocession of the colony and island of Orleans, which is to be made to the general of division, Victor, or other officers lawfully authorized by the government of the French republic, take place under the same form as that in which France has ceded it to his majesty. In virtue of which the limits of the *of the* border of the Mississippi or river St. Louis, shall remain as they were fixed by the 7th article of the definitive treaty of peace, concluded in Paris the 10th of February, 1763, and consequently the settlements of the river Manshack or Iberville, as far as the line

which separates the American territory from the king's domain, shall remain under the power of Spain and annexed to the Western Florida.

Second. All individuals who have been in the employ of his majesty, and who will remain under the domination of the king will go to the place of Havana, or any other places belonging to his majesty, unless they should prefer to remain in the service of France, which they may freely do, but should any just and well founded reasons hinder them for the present, to comply with this disposition, they may state them through their respective chiefs to be decided upon accordingly.

Third. The benevolence of his majesty will not discontinue the pensions granted to the widows and those who have retired from the service, and will acquaint them in what manner they may receive their pensions.

Fourth. His majesty makes known, that by the wishes he entertains for the advantage and peace of the inhabitants of the colony, he expects from the sincere and close amity and alliance which unites the Spanish government to that of the Republic, that the latter will give orders to the governors and other officers employed in its service, in the said colony and city of New Orleans, to the end that the churches and other houses of religious worship, served by the curates and missionaries, should continue on the same footing and enjoy the same privileges, prerogatives and immunities which were granted to them by the titles of their establishments; that the ordinary judges continue equally as the tribunals established, to administer justice according to the laws and customs adopted in the Colony—that the inhabitants should be maintained and preserved in the peaceable possession of their property; that *all concessions or property of any kind soever, given by the governors of these provinces, be confirmed, although it had not even been done by his majesty;* hoping also that the government of the Republic will give to its new subjects the same proofs of love and protection, which they have had under the government of his majesty.

Fifthly. In order that all parties interested may take the resolution which they will judge the most conducive to their interest and welfare, we also make known, that in case of doubt they may have recourse and apply to any of us, for more ample information and knowledge according to the rules and instructions which we have received. And that it may come to public knowledge, we do ordain, that the same be published with all the solemnity required at the sound of military drum, and posted up in the ordinary places.

Given at New Orleans, May 18th, 1803.

MANUEL de SALCEDO.
LE MARQUIS de CASA CALVO.

By order of their Lordships,
CHARLES XIMENES, Secretary of War.
Copy. ANDRE LOPEZ ARMESTO.

Exhibit No. 7. Incluimos a V. S. para Su intelligencia y cumplimiento en la parte que le toca acerca de las disposiciones en el prevenidas, el Bando publicado sobre la entrega de esta Prova. a la Republica Francesa, debiendo V. S. acusar su recibo, avisando iqualmente de las intenciones de cada qual para las providencias convenientes.

Dios que. a V. S. Ms, As. Nueva Orleans, 26 de Mayo, de 1803.

MANUEL de SALCEDO.
Sr. Dn. CARLOS de LASSUS. EL MARQUIS de CASA CALVO.

Translation. We inclose to your lordships for your knowledge and accomplishment in that part relating to you about the depositions provided for in the bond published relative to the cession of this province to the French Republic, of which your lordship will acknowledge the receipt, advising us likewise of its compliance by the most convenient opportunity.

God preserve your Lordship many years.

New Orleans, May 26, 1803.

MANUEL de SALCEDO.
EL MARQUES de CASA CALVO.

Sr. Dr. CHARLES DEHAULT DELASSUS.

Exhibit No. 8. B. F. page 40. To Frederick Bates, Esq. Recorder of land titles, in and for the territory of Missouri: Please to take notice that under right derived from the Spanish Government and the provisions of the several laws of Congress. *John Smith T.* assignee of *Jacques de St. Vrain*; representatives of said John Smith T. assignee of said St. Vrain, claim title to ten thousand superficial arpens of land in the territory of Missouri, late Louisiana. The original grant having been unfortunately lost; the claimant now offers as authentic evidence thereof, the translation of the said St. Vrain's petition to the "Baron de Carondelet" and the decree of the said Baron de Carondelet thereon, which you will find published in the appendix of the United States "land laws" page 80 and 81, which "land laws" are now in your possession, and which translation you will please to record as one written evidence to this claim; you will also please to record with this notice the record of the original petition and grant which you will find recorded in your office, book C. pages 336 and 337; you will also please to record with this notice all the evidence which was given in support of the said claim before the late board of commissioners, which you will find recorded in your office in book No. 1 page 514, the deed of conveyance and other papers herewith submitted, are also to be recorded with this notice. The following locations are and have been made on the aforesaid claim, part of which were formerly noticed and claimed with the recorder of land titles: which *part* may have been acted upon, or taken into some kind of consideration by the late board of commissioners, the remainder of the locations have never until now been claimed with their special locality, and several exact quantities located and fully set forth; a part, however, of the said ten thousand arpens is not yet specially and particularly located; which unlocated part the claimants retain the privilege of locating according to the provisions of the petition and grant at any time hereafter on any public lands in the same manner as it might have been located under the late Spanish government. The evidence given or to be given under this notice is intended to apply to the whole claim of ten thousand arpens, as well as the parts unlocated, as to the several parts which are, or have been located, and in order to bring into view the whole of the parts which are located at this date, and the part yet remaining unlocated, the following statement of locations is subjoined, which comprehends *all* the locations heretofore made; including parts and parcels which have been heretofore claimed, with the recorder as being specially located, and the parts which have been located since that time, and now (for the only time) recorded as such, each of which locations are herein numbered, each number containing the quantity and particulars of the tract located. No. 2 and 3 containing together in the whole two thousand five hundred arpens

of land, "mine Shilobeth" and "mines of Belle Fountain," the said number 2 containing thirteen hundred arpens, and including the said mine Shilobeth, as represented by plat No. 2, herewith submitted for record, the boundaries of which was marked, corners well established, and survey thereof fully made by Silas Bent, esquire, in January 1812, as represented by that said plat No. 2, on which location and survey made by Mr. Bent, as represented by plat No. 2, the claimant places in *entire* reliance. The same 1,300 arpens of land however, is contained in another plat of survey herewith submitted for record, as being included in the survey with No. 3, that part of plat No. 2 and 3 which includes No. 2, to the line dated from A to B, is not relied under this notice, No. 2, as therein represented being added to number 2 for no other purpose than to show their relevant situation and connection. That part of plat No. 2 and 3 marked on its face "*No.* 3" 1200 *arpens mines of Belle Fountain* which extend from line dotted from A to B is considered No. 3 under this notice of claim, and contain twelve hundred arpens of land including "mines Belle Fountain," the lines of which are well marked, and corners well established, as represented by that *part* of plat No. 2 and 3 which is "No. 3," and extends to the aforesaid dotted line; on the correctness of which location and survey of 1200 arpen the claimant relies; which said Nos. 2 and 3 as aforesaid, contain together two thousand five hundred arpens.

St. Louis, November 30th, 1812.

WM. RUSSELL,
Agent for the Claimant.

[Here follows a copy of plat, for which see opposite page.]

The above plat is made to a scales of 25 chains equal to 2,500 links to an inch.

To Frederick Bates, esquire, Recorder of land titles, in and for the territory of Missouri. Please to take notice that the above is the plat of survey of thirteen hundred arpens of land, including mine Shilobeth, in the district of St. Genevieve, on the waters of Big river, claimed by John Smith T. as assignee of Jacques de St. Vrain, as will more fully appear by the notice of the said claim, dated 30th of November, 1812, signed by *William Russell*, agent for the claimant, in which notice the above plat is designated by No. 2, the lines of which were run with a compass adjusted to the magnetic meridian. The corner A having for witnesses a white oak, N. 25 W. at 20 links distance, and one other white oak, S. 30 W. 50 links distance; from which the line runs N. 70 W. 123,00 links of the (American) chain, to the corner at B. to which corner, the witnesses are a white oak about 5 inches in diameter, S. 25 E. twelve links distance, a hickory 7 inches in diameter, N. 30, W. 20 links distant, thence S. 71 E. 123.00 links of the chain to corner C, being a double black oak, each fork of which is about one foot in diameter, thence S. 22 E. 51,00 links of the chain to corner D, which has for witnesses a white oak, 10 inches in diameter, N. 23 E. 7 links distant, and one other white oak, 11 inches in diameter, N. 16 W. 26 links distant. Thence S. 38 W. 63,50 links of the chain to corner E, which has for witnesses a white oak 10 inches in diameter, S. 4 E. 50 links distant, one other white oak 15 inches in diameter, N. 53 W. 60 links distant, and one other white oak 9 inches in diameter S. 80 W. 45 links distant, thence N. 80 W. 70,00 links of the chain to the first aforesaid corner A, which survey was made by Silas

Bent, Esquire, in January 1812, the lines of which were then measured and marked and corners well established.

WM. RUSSELL,
Agent for JOHN SMITH T.

N. B. *This* 1300 arpens of land is included, the within the plat of survey No. 3, which two numbers together make 2,500 arpens, so far, however, as regards the foregoing and within mentioned tract of 1300 arpens, this paper plat, and boundaries, contains the *location* on which the claimant *entirely relies.*

St. Louis, November 30th, 1812.

WM. RUSSELL,
Agent for JOHN SMITH T.

F. p. 41. (Under the above notice) No. 13 one thousand arpens of land as heretofore located, recorded and claimed at a place called "New Diggings" in the district of St. Genevieve, on the waters of Big river. (F. p. 244.)

To Frederick Bates Esq., Recorder of land titles in and for the territory of Missouri,-- Sir, please to record the plat of survey herewith submitted as a written and additional evidence of a claim to part of a tract of ten thousand arpens claimed by John Smith T. assignee of Jacques de St. Vrain, by a notice dated on or about the 30th of November, 1812, the plat herewith submitted comprehending one thousand arpens of said claim and designated or identified on the aforesaid notice by No. 3, containing one thousand arpens including a place called "New Diggings," in the district (now county) of St. Genevieve, which plat the claimant asks to be recorded under the provisions of the first section of an act of Congress approved the 3d of March, 1813.

St. Louis, October 30th, 1813.

WM. RUSSELL,
Agent for JOHN SMITH T.

April the 28th, 1813.

MISSOURI TERRITORY,
County of St. Genevieve.

In compliance with an order of the general court, surveyed for Robert Stothart, a tract of land lying and being on the west fork of the Prairie Spring creek, at the mines called the New Diggings, about two miles and a half from the mine a Burton, beginning at two post oaks, Thomas Russell's N. E. corner, and running west 120 poles to a post oak, thence N. 130 poles to Derias Shaw's line to a post oak, thence E. with said line passing Shaw's corner and crossing the creek 424 poles to a post oak, thence S. 397 poles to a stake, thence West 304 poles to a stake, thence N. 267 poles to the beginning, including the mines and diggings and furnaces of what is called the new diggings, containing 1000 arpens.

HENRY BRINLLEY. } C. C.
and JOHN H. WEBER. }

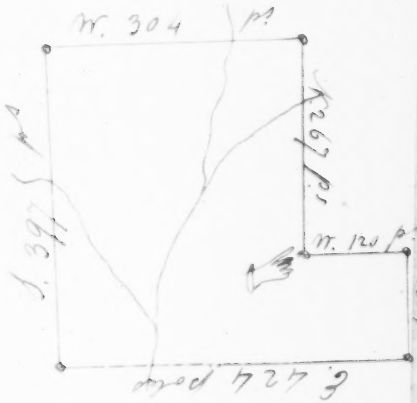
JOHN HAWKINS, Surveyor by order of the General Court.

Recorder's Office, of the Missouri Territory, St. Louis. January 31, 1824.

The foregoing is truly copied from the records of this office.

FREDERICK BATES,
R. L. Titles.

A
north 9° degrees west 499
english perches or
123 chains
B
C
D
magnetic meridian


N. 304 Pl.
S. 397 Pl.
N. 267 Pl.
N. 120 Pl.
S. 137 Pl.
E. 424 Poles